

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 14498, of the Coalition for the Homeless, Inc., pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraphs 3102.44, 3102.445, and 3102.446 to establish an emergency shelter for more than four persons, to approve more than one community based facility in a square or within 500 feet, and to approve a facility for up to twenty-seven men in a R-4 District at premises 1333 Emerson Street, N.W., (Square 2807, Lot 17).

HEARING DATE: October 15, 1986  
DECISION DATE: November 5, 1986

FINDINGS OF FACT:

1. The site is located on the north side of Emerson Street between 13th and 14th Streets and is known as premises 1333 Emerson Street, N.W. It is zoned R-4.
2. The site is generally rectangular in shape and has a lot area of approximately 6,393 square feet.
3. The site is improved with a brick, three-story plus basement detached dwelling which was constructed in 1910 and a two-car garage at the rear of the property. The main structure contains eight bedrooms, two full baths with two showers in each, two half baths, a kitchen, a dining room and a recreation/utility room in the basement.
4. The land uses in the area surrounding the site are generally residential and institutional in nature. Single-family detached residences predominate along Emerson and Farragut Streets. There are two garden-type apartment buildings located approximately 100 feet east of the subject site. There is a day care center located immediately east of the apartment buildings. Directly west across a ten foot wide public alley is St. Paul's AME Church. The World Plan Executive Council Building is located approximately 350 feet northwest of the site. There is a public elementary school one block away on Farragut Street. There are retail commercial uses and a Metro bus garage located approximately 800 feet south of the site in a C-1 District along 14th Street.
5. Pursuant to 11 DCMR Section 3108.1, the applicant is seeking a special exception under Paragraphs 303.1, 303.7 and 303.8 to establish an emergency shelter for more than

four persons, to approve more than one community based facility in a square or within 500 feet and to approve a facility for up to 27 men.

6. The applicant has been operating an emergency shelter at the site without a valid Certificate of Occupancy since approximately April 24, 1986. Ten men currently reside at the premises. The applicant testified that the operation of the facility began without proper authority as a response to a crisis level shortage of housing for homeless men in the District of Columbia.

7. The applicant, The Coalition for the Homeless, Inc., was incorporated on August 24, 1981 as a District of Columbia non-profit corporation. The Coalition was organized to eradicate the problem of homelessness by the implementation of comprehensive programs designed to address the root causes of the problem, instead of its symptoms. The Coalition's objective is to establish an effective means by which homeless individuals can realize independent living status and become economically contributing members of the community. The Coalition is committed to accomplishing this goal through the development of "transitional homes".

8. The proposed transitional home is not a typical "emergency shelter" which offers homeless persons nothing more than the bare-bones essentials of human existence -- a bed, a shower and a limited source of food, such as soup and a sandwich. An emergency shelter also is open to all homeless persons any of whom may be admitted without formal screening procedure. In addition, an emergency shelter typically remains open from between 5:00 P.M. to 7:00 P.M. until approximately 7:00 A.M. the next morning.

9. The Coalition's transitional home program offers its residents balanced meals, dental and medical care, as well as individual and support group counseling. The transitional program also provides the residents with financial management training, as well as assistance in securing gainful employment and independent housing. Residents of the Coalition's transitional homes are selected by trained staff persons pursuant to rigorous screening procedures. To be eligible for admission, applicants must be at least 19 years of age, must be in good health and must not have been homeless for more than three years. Applicants must demonstrate that they are motivated to secure gainful employment and to re-enter independent living. Applicants who meet these threshold criteria are given a complete physical and mental examination, and are then interviewed by the Coalition's employment and housing counselors to ensure that they are job-ready and employable. Each applicant must then attend an orientation session and ultimately sign a contract with the Coalition agreeing to abide by all house rules and program policies. Residents of the transitional

home must seek, secure and maintain full-time gainful employment. The Coalition staff provides employment counseling and assists each resident in his job search. Once employed, each resident must contribute a percentage of his net salary to a participants' fund which is used to defray a portion of the expenses of running the program. The fund is also designed to provide the residents with a sense of financial responsibility in preparation for their return to independent living. After a resident secures gainful employment and demonstrates his readiness to be independent, the Coalition staff assists him in locating acceptable housing in the community. The Coalition staff continues to monitor the resident once he leaves the transitional home and re-enters the community.

10. The faculty of the shelter consists of five full-time counselors and one part-time cook. The five counselors rotate shifts so that there is always at least one staff person on duty on a 24-hour basis. All of the counselors are trained in various forms of counseling and service aid techniques including crisis intervention, first aid and cardiopulmonary resuscitation. Each staff member provides financial management, employment and housing counseling to the residents. They also serve as liaisons between governmental social agencies and the residents, and coordinate the daily operation of the house. The part-time cook is responsible for maintaining the kitchen, preparing dinners, light breakfasts and lunches which are packed for the residents to take to their jobs.

11. The problem of homelessness in the District of Columbia has reached crisis proportions and immediate and long-range remedial actions are needed to alleviate the problem.

12. The multiple bedrooms and bathroom facilities, large kitchen and office area make the structure particularly appropriate for housing the number of unrelated individuals for which approval is sought. The site is also desirable for the Coalition's purposes because it provides the residents with a home-type environment instead of an institutional atmosphere of a school building or warehouse.

13. The Coalition has strict rules and regulations pertaining to resident conduct at the property. These rules and regulations are strictly enforced. Violation of these rules and regulations can result in sanctions, including termination from the transitional home program. The rules and regulations forbid the use or possession of alcohol or illegal drugs on the premises and prohibit residents from entering the transitional home if intoxicated. Any resident who is enrolled in a drug, alcohol or mental health program must continue to regularly attend such programs while residing at the site. Smoking is permitted in social and dining

areas only. No sexual activity is permitted on the premises. The rules also forbid the residents to possess any weapon, and require that all working and recreational tools must be stored in the staff office.

14. The screening process for the transitional home begins when the Coalition's Networking Coordinator interviews a prospective resident who has been referred to the Coalition. Referrals come from various sources, including directors of traditional emergency shelters, church officials, social workers, employees of the District Council members. The Networking Coordinator interviews the prospective resident wherever he is presently residing. If the Networking Coordinator determines that the candidate is worthy of further evaluation, the Networking Coordinator invites him to submit a formal application to the Coalition. The application includes an authorization for release of medical and mental health information. Future residents will also be required to verify on their applications that they have no police record. The Networking Coordinator makes check-up phone calls to employers, emergency contact persons, social workers, personnel at alcohol and/or drug abuse treatment programs, medical personnel and military personnel, as applicable. The applicant's file is then reviewed by the Coalition's Field Program Monitor, who ascertains whether the Networking Coordinator has adequately investigated all of the information therein provided. The Field Program Monitor then refers the application file to the Mental Health Coordinator who schedules appointments and checks with the various staff members to make certain that the applicant promptly keeps all of his appointments. The applicant is then given complete physical and mental health examinations by the staff of the National Health Plan which submits a written report to the Coalition's Mental Health Coordinator for his review. That report shall henceforth include a recommendation of the National Health Plan as to whether the applicant should be accepted into the Coalition's transitional home program. The applicant's entire data package is then reviewed at a meeting of the full Coalition program staff, and a decision is made whether to accept the applicant into the program. The accepted applicant is then assigned to one of the Coalition's transitional houses in the District of Columbia, depending upon such factors as the availability of space and the proximity of the house to the applicant's present job. The new resident is then given an orientation with the House Manager, during which he is issued a Coalition Handbook and copies of the Coalition's rules and regulations. The resident is requested to read these materials or, if unable to read, to listen to them on audio cassette. The new resident then signs a contract with the Coalition agreeing to abide by all Coalition rules and regulations.

15. During his stay at the transitional house, the resident attends weekly follow-up meetings with his house staff counselor who keeps an in-house file on the resident. The Health Coordinator follows up with any resident who is enrolled in an alcohol or drug abuse treatment program. If the client is employed, the house counselor places an initial call to the client's employer to ascertain whether he is still employed and to verify his salary, payday and hours. A house counselor calls the employer on a regular basis to document the client's job progress. If unemployed, the resident meets with the Coalition's Employment Coordinator and the staff of independent employment agencies on a regular basis in order to obtain employment. Any resident who is a Veteran meets with the Veterans' Coordinator on a regular basis. In addition, the House Manager reviews all in-house client files at least once a week, The House Manager and the house counselors meet at least twice a month to review, evaluate and assess the progress of all residents. The Field Program Monitor reviews all house files monthly. Each resident is accepted into the program for a period of 90-120 days. If a resident cannot find adequate housing within 120 days, due to reasons beyond his control, the Coalition will not relocate him. Instead, Coalition staff persons will continue to assist that person in obtaining adequate housing in the community. The Coalition staff continues to monitor "graduates" of the transitional program once they obtain gainful employment and acceptable housing in the community.

16. The Coalition's Board of Directors has passed a Resolution calling for the appointment of a staff member to monitor the exterior of the site and to patrol the block in which the site is located at regular intervals, particularly in the evening hours (6:00 to 11:30 P.M.).

17. The community liaison policy recently established by Resolution of the Coalition's Board of Directors is intended to ensure satisfactory interaction between the Coalition and its neighbors. The Coalition's Board of Directors has resolved that the Coalition shall appoint a community liaison representative who (1) shall attend regularly scheduled meetings of ANC 4C and all neighborhood citizens associations; (2) shall distribute a monthly newsletter/update to ANC Commissioners, applicable neighborhood citizens' association officers and all property owners within a radius of 200 feet of the site and (3) shall be "on-call" on a 24-hour basis to supply information as may be required or requested by members of the community. The community liaison will also be charged with providing information deemed necessary to protect the public health, safety and morals, to any ANC commissioner or neighborhood citizens association officer who requests such information. In addition, the Resolution states that all regular meetings of the Coalition's Board of Directors (the place, date and

time of which shall be included in the monthly newsletter/updates described above) shall be open to the public. The Coalition's Board of Directors has further resolved that the Coalition shall respond in writing to any complaint received from ANC 4C or other nearby citizens' organizations within 30 days of receipt.

18. There are currently two community residence facilities for five or more residents within 500 feet of the subject site. Those facilities are located at 4804 14th Street and 1301 Emerson Street, N.W. The facility at 4804 14th Street houses eight wards of the District between the ages of ten and seventeen. The facility at 1301 Emerson Street houses eight senior citizens. In addition, there are two community residence facilities for four residents located at 1311 and 1314 Emerson Street, N.W. These two facilities are permitted as a matter-of-right in the R-4 District.

19. The applicant testified that adequate parking exists on and in the immediate vicinity of the site. There is a paved area in the rear yard of the site abutting a public alley, which is sufficient to accommodate two cars. Curb side parking is available on 14th Street and Arkansas Avenue in numbers sufficient to accommodate the Coalition's staff and residents.

20. Two of the ten persons currently residing at the site own automobiles. Public transportation is available at a level of service sufficient to serve the proposed use. Nearby Metro bus lines include Routes 50, 52 and 54, operating along 14th Street, N.W. Only three staff members drive vehicles to the site. Since the staff rotates shifts, these cars will not often be present at the site at the same times. The traffic and parking situation in the vicinity of the site will be further minimized by the Coalition's rule that residents are not permitted visitors at the premises. Contacts by the residents with family members and friends are encouraged, but such gatherings are to be held in public places or at the residence of the family member or friend.

21. The Coalition is performing all work required by the appropriate District of Columbia inspectors and agencies charged with enforcing the municipal codes. The Coalition anticipates that all such work will be completed in the immediate future. The Board believes that the Coalition will promptly perform any additional work which may subsequently be required by the District of Columbia inspectors or agencies.

22. The applicant currently has ten residents and five staff. The applicant is seeking approval for an increase to twenty-seven residents. No increase in staff is proposed. The resultant staff-to-resident ratio will be one to seven.

23. The applicant testified that the proposed use will not generate noise beyond that typically experienced in a family oriented residential situation. The masonry construction of the premises should minimize any noise impact on neighboring properties. Excessive noise is also prohibited by the Coalitions house rules.

24. By memorandum dated October 8, 1986, the Office of Planning (OP) reported that it cannot condone the applicant's disregard for the Zoning Regulations which it demonstrated by occupying the site without a valid certificate of occupancy. The OP recommended denial of the application on that basis.

25. By letter dated October 7, 1986 Advisory Neighborhood Commission (ANC) 4C reported its opposition to the application since it had concerns about the Coalition's unauthorized occupancy of the site, the character of the men who will temporarily reside at the facility, the quality of screening and evaluation conducted by the Coalition in selecting residents, the cumulative impact of the subject use and other CBRFs in the neighborhood, and the potential increases in parking and traffic congestion. The ANC also expressed concern that the use might not be in compliance with all applicable District of Columbia codes and licensing requirements.

26. The record contains one letter in support of the granting of the application. That support was generally based on the need for the type of services proposed by the Coalition in the District of Columbia.

27. The Carter Barron East Neighborhood Association (CBENA) by representative at the public hearing and written statements in the record, opposed the granting of the application. In addition to the issues and concerns raised by the ANC, the CBENA had the following comments:

- a. The staff to resident ratio of one-to-seven is too low to effectively monitor the operation of the facility.
- b. The maintenance of the exterior of the property is not up to the general standards of other properties in the area.
- c. The possible requirement of an exterior fire escape would detract from the residential character of the neighborhood.

28. Several residents of adjacent and nearby properties testified in opposition to the application at the public hearing. In addition to the items mentioned by the ANC and CBENA, the residents testified that the illegal existence of

the facility for ten residents has already had the following impacts on the neighborhood:

- a. The neighboring residents are disturbed by loud music and talking, including the use of profanity, from the residents of the facility, from both inside and outside of the subject premises, even after the hours of curfew described by the applicant.
- b. There has been an increase in the amount of double parking in the alley adjacent to the subject facility.
- c. There has been an increase in the amount of litter in the area, including empty liquor bottles and beer cans.
- d. There has been an increase in criminal activities in the area. Several automobiles have been broken into since the facility was opened, neighbors have complained about incidents of trespassing by residents of the facility and some residents have witnessed the use of drugs and alcohol by residents of the facility.
- e. The residents of the facility tend to loiter in front of the facility in the alley and on the school play ground.

The opposition conceded that all of the issues raised could not be directly attributed to residents of the subject facility. However, the opposition submitted photographs depicting persons apparently loitering on the porch of the facility, a police report of an arrest for shoplifting of a person whose address was listed as that of the subject facility, and numerous questionnaires filled out by area residents describing their observations on the operation of the facility.

29. The record contains several additional letters from area residents in opposition to the granting of the application.

30. In response to the issues raised by the ANC and OP of the illegal occupancy of the facility, the record notes that by virtue of a Consent Order entered by the District of Columbia Superior Court in the case of District of Columbia v. Kenney Martin, et al., CA No. 4015-86, the Coalition is enjoined from opening any additional CBRFs without valid Certificates of Occupancy. The Applicant has also submitted in the record a Resolution of its Board of Directors which expressly states that the Coalition henceforth shall not



occupy any structure in the District of Columbia without having first obtained a valid Certificate of Occupancy. Though the Applicant's prior practice is reprehensible, the Board believes that the matter has been adequately remedied by the Court's Order. It is not the function of the Board to prosecute such a violation, but is merely to determine if the applicant has met the applicable requirements of the Zoning Regulations.

31. In addressing the issues and concerns of the ANC and the opposition, the Board finds the testimony and evidence submitted by the opposition to be persuasive in demonstrating the inability of the applicant to meet the requisite criteria. The current illegal operation of the facility by the current number of staff for fewer than half the number of residents proposed has evidenced that the facility will generate noise in excess of that typically experienced in uses that are a matter-of-right. The use has contributed to the incidence of criminal activity in the area. The rules of behavior proffered by the applicant as applicable to residents of the facility have not been strictly enforced. The Board finds that the applicant has not met the criteria set forth in Section 303.6 of the Zoning Regulations.

#### CONCLUSIONS OF LAW AND OPINION:

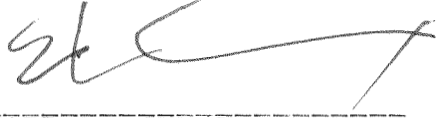
Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking special exceptions, approval of which requires the applicant to demonstrate substantial compliance with the criteria set forth in Section 303 of the Zoning Regulations. The Board concludes that the applicant has not met its burden of proof. There are two other facilities for five or more persons within the same square. Existing double parking and illegal parking in the public alley evidence adverse impacts on traffic conditions in the neighborhood. The current operation of the facility has created adverse impacts on the area in terms of traffic and parking problems, excessive noise, and a lack of control over the operating characteristics of the facility.

The Board further concludes that the approval of the relief requested will not be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will tend to adversely affect the use of neighboring property. The Board further concludes that it has afforded to the ANC the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application be DENIED.

VOTE: 4-0 (Patricia N. Mathews, William F. McIntosh, Paula L. Jewell and Carrie L. Thornhill to deny; Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
EDWARD L. CURRY  
Executive Director

MAR 10 1989

FINAL DATE OF ORDER: \_\_\_\_\_

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

14498order/LJP26